

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION**

BRIAN SCOTT BERRYMAN

PETITIONER

V.

CIVIL ACTION NO. 1:22-CV-00140-SA-RP

**BURL CAIN and
MISSISSIPPI DEPARTMENT OF CORRECTIONS**

RESPONDENTS

ORDER DIRECTING STATE TO RESPOND

On September 28, 2022, Petitioner, proceeding *pro se*, filed the instant federal habeas corpus proceeding under 28 U.S.C. § 2254. Doc. #1. Petitioner also filed a motion to hold these proceedings in abeyance that same date. Doc. # 4. As a result, the Court entered an Order on October 12, 2022, directing the State to respond to the motion to hold in abeyance. Doc. # 7. Since that time, however, Petitioner has asked to go forward and has abandoned his request to hold this matter in abeyance. Doc. # 16. The Court granted Petitioner's request on January 4, 2023. Doc. # 17. The Court understands that Respondents presented an argument for dismissal of the instant federal habeas petition in their response to the motion to hold in abeyance. *See* Doc. # 13. Given that this matter is now in a different procedural posture, however, the Court finds that a separate response addressing only Petitioner's claims (found in Doc. # 1) is appropriate.

Accordingly, it is, therefore, **ORDERED**:

1. That no later than March 6, 2023, respondents through Lynn Fitch, Attorney General of the State of Mississippi, or her lawful successor, file their response to this action, along with full and complete transcripts of all proceedings in the state courts of Mississippi arising from the petitioner's conviction for felon in possession of a firearm in the Circuit Court of Tishomingo County, Mississippi (to the extent such are relevant to the State's response).
2. That within fourteen (14) days of service upon him of a copy of respondents' answer,

petitioner may file his reply to the allegations contained in such answer.

3. The Clerk of this Court will serve by email (Return Receipt, High Importance) a copy of the petition, this order, acknowledgment of service of process form, and any other initial filings upon Lynn Fitch, Attorney General of the State of Mississippi, or her lawful successor, to Assistant Attorneys General Jerrolyn Owens and Bridgette Grant. The respondents must electronically file the completed acknowledgment of service of process form upon receipt.

Petitioner is warned that failure to keep this court informed of his current address could lead to dismissal of his lawsuit.

This, the 4th day of January, 2023.

/s/ Roy Percy
UNITED STATES MAGISTRATE JUDGE